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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,573	11/22/2003	Belle L. Chou	SHENW.PT4	3254
24943 7590 01/07/2009 INTELLECTUAL PROPERTY LAW GROUP LLP 12 SOUTH FIRST STREET SUITE 1205 SAN JOSE, CA 95113				
EXAMINER				
VU, JAKE MINH				
ART UNIT		PAPER NUMBER		
1618				
MAIL DATE		DELIVERY MODE		
01/07/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/719,573

**Applicant(s)**

CHOU, BELLE L.

**Examiner**

JAKE M. VU

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 October 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.  
4a) Of the above claim(s) 24-31 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-23 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-893)  
4) ☐ Interview Summary (PTO-413)  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_  
Paper No(s)/Mail Date 10/31/08

### **DETAILED ACTION**

Receipt is acknowledged of Applicant's Request for Continued Examination filed on 10/21/2008; and Information Disclosure Statement filed on 10/31/2008.

- Claims 1-31 are pending in the instant application.
- Claims 24-31 have previously been withdrawn from consideration.

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/21/2008 has been entered.

#### ***Claim Rejections - 35 USC § 102***

Claims 1, 13-17 rejected under 35 U.S.C. 102(b) as being anticipated by USALA (US 5,236,703) **are maintained** for reasons of record in the previous office action filed on 04/21/2008 and as discussed below.

Applicant argues that USALA does not provide for a second layer "configured to resist penetration by the anti-microbial agent" (the agent being from the first layer) as claimed and "to resist contact between the anti-microbial agent with the hand" (again, the agent being from the first layer). USALA teaches that a "no release substrate" could

be placed on the inner surface. However, this is not the equivalent to a second layer configured to resist penetration by the anti-microbial agent from the first layer. The Examiner cites this "no release substrate" as a layer "with no antimicrobial" (Action, page 3). However, an inner layer with no antimicrobial is NOT what Applicant's claim 1 recites. Applicant respectfully contends that Examiner is reading limitations into Applicant's claims which are not being claimed. The Examiner finds this argument unpersuasive, because USALA's no release substrate inner layer would inherently resist penetration by the anti-microbial agent.

Applicant argues that neither does a "no release substrate" in USALA equate to "no antimicrobial". The Examiner finds this argument unpersuasive, because USALA disclosed "for the very small group of people having a mild allergic reaction to povidone iodine, the above glove construction could be reversed to place the no release substrate on the inner surface (see col. 4, line 54-57)".

### ***Claim Rejections - 35 USC § 103***

Claims 1-8, 10, 13-17 rejected under 35 U.S.C. 103(a) as being unpatentable over MILNER (US 5,031,245) in view of FECHNER et al (US 7,241,459), USALA (US 5,236,703), and WOLLMANN et al (US 3,793,059) **are maintained** for reasons of record in the previous office action filed on 04/21/2008 and as discussed below.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this instance, Applicant argues that MILNER fails to teach the "first layer" and the "second layer" glove structure as claimed by Applicant. The Examiner finds this argument unpersuasive, because the tertiary reference, USALA, teaches teach the "first layer" and the "second layer" glove structure as discussed above.

Applicant argues that USALA does not provide for a second layer "configured to resist penetration by the anti-microbial agent" (the agent being from the first layer) as claimed and "to resist contact between the anti-microbial agent with the hand" (again, the agent being from the first layer). The Examiner finds this argument unpersuasive, because USALA's inner layer would inherently resist penetration.

Claims 1-23 rejected under 35 U.S.C. 103(a) as being unpatentable over MILNER (US 5,031,245) in view of FECHNER et al (US 7,241,459), USALA (US 5,236,703), WOLLMANN et al (US 3,793,059) and CHOU (US 2003/0204893) **are maintained** for reasons of record in the previous office action filed on 04/21/2008 and as discussed below.

Applicant argues that CHOU fails to provide the missing elements from USALA, wherein USALA does not provide for a second layer "configured to resist penetration by the anti-microbial agent" (the agent being from the first layer) as claimed and "to resist contact between the anti-microbial agent with the hand" (again, the agent being from the first layer). The Examiner finds this argument unpersuasive, because USALA's inner layer would inherently resist penetration.

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Applicant traverses any objection to the form of claim 23. The Examiner clarifies that there was non objection, but rather stating that the intended use of the gloves as "disposable" is met by the prior art, because any glove is capable of being disposable.

***Telephonic Inquiries***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAKE M. VU whose telephone number is (571)272-8148. The examiner can normally be reached on Mon-Tue and Thu-Fri 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hartley can be reached on (571) 272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jake M. Vu/  
Primary Examiner, Art Unit 1618

**Application Number****Application/Control No.**

10/719,573

**Applicant(s)/Patent under  
Reexamination**

CHOU, BELLE L.

**Examiner**

JAKE M. VU

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